

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Karina Herrera	Team: Squad #7	CCRB Case #: 201900074	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/27/2018 1:32 PM	Location of Incident: [REDACTED]	Precinct: 14	18 Mo. SOL 5/27/2020	EO SOL 1/11/2021	
Date/Time CV Reported Fri, 12/28/2018 1:10 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/03/2019 11:01 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM David Ciangiulli	04729	956527	MTS PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Tyler Theiss	30259	963775	MTS PCT
2. POM Daniel Park	14596	946095	PBMS SU

Officer(s)	Allegation	Investigator Recommendation
A.POM David Ciangiulli	Force: Police Officer David Ciangiulli used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM David Ciangiulli	Discourtesy: Police Officer David Ciangiulli spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
C.POM David Ciangiulli	Off. Language: Police Officer David Ciangiulli made remarks to § 87(2)(b) [REDACTED] based upon the perceived sexual orientation of § 87(2)(b) [REDACTED]	[REDACTED]
D.POM David Ciangiulli	Abuse: Police Officer David Ciangiulli frisked § 87(2)(b) [REDACTED]	[REDACTED]
E.POM David Ciangiulli	Abuse: Police Officer David Ciangiulli searched § 87(2)(b) [REDACTED]	[REDACTED]
F.POM David Ciangiulli	Discourtesy: Police Officer David Ciangiulli spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
G.POM David Ciangiulli	Abuse: Police Officer David Ciangiulli took a photograph of § 87(2)(b) [REDACTED]	[REDACTED]
H.POM David Ciangiulli	Off. Language: Police Officer David Ciangiulli made remarks to § 87(2)(b) [REDACTED] based upon the gender of § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On December 28, 2018, § 87(2)(b) filed the following complaint with the IAB Command Center and it was received by the CCRB on January 3, 2019.

At approximately 1:32 p.m. on November 27, 2018, Police Officer David Ciangiulli and Police Officer Tyler Theiss from the 14th Precinct were with § 87(2)(b) at § 87(2)(b), which was located at § 87(2)(b) in Manhattan, to assist him with filing a police report regarding a larceny. While they were in the hotel lobby, § 87(2)(b) felt light-headed, so he grabbed Police Officer Ciangiulli's arm. While § 87(2)(b) was holding him, Police Officer Ciangiulli allegedly pushed his arm towards § 87(2)(b) which caused § 87(2)(b) to fall on the floor (**Allegation A: Force – Physical Force**, § 87(2)(g)). After he stood up, § 87(2)(b) Police Officer Ciangiulli, and Police Officer Theiss proceeded to § 87(2)(b)'s hotel room so they could wait for the Evidence Collection Team (ECT) to arrive.

While they were waiting for ECT, Police Officer Ciangiulli approached § 87(2)(b) and allegedly squeezed all of his fingers (**within Allegation A**). Police Officer Ciangiulli told Police Officer Theiss, "He stabbed me. He's got a knife or something." Police Officer Ciangiulli removed his jacket and showed § 87(2)(b) a mark on his arm. Police Officer Ciangiulli yelled so loudly at § 87(2)(b) that his spit allegedly landed on § 87(2)(b) (**Allegation B: Discourtesy – Demeanor/Tone**, § 87(2)(g)). Police Officer Ciangiulli allegedly referred to § 87(2)(b) as a faggot while speaking to Police Officer Theiss (**Allegation C: Offensive Language – Sexual Orientation**, § 87(2)(g)). Police Officer Ciangiulli allegedly frisked § 87(2)(b) and instructed him to empty his pockets (**Allegation D: Abuse of Authority – Frisk**, § 87(2)(g)). Police Officer Ciangiulli allegedly told § 87(2)(b) "I don't give a shit about you" (**Allegation F: Discourtesy – Word**, § 87(2)(g)). § 87(2)(b) advised Police Officer Ciangiulli to go to the hospital and Police Officer Ciangiulli allegedly replied, "No you son of a bitch – I ain't going nowhere with you" (**within Allegation F**).

At some point, Police Officer Ciangiulli allegedly grabbed § 87(2)(b)'s hands again and pulled his fingers (**within Allegation A**). Police Officer Ciangiulli allegedly squeezed and slapped a mark that was on § 87(2)(b)'s hand, and he took a picture of it (**within Allegation A**) (**Allegation G: Abuse of Authority – Photography**, § 87(2)(g)). Police Officer Ciangiulli allegedly told § 87(2)(b) "That's what the fuck was wrong with you last night - you were too fucking stoned to know what the hell was going on" (**within Allegation F**). In addition, Police Officer Ciangiulli allegedly used a female voice to mimic § 87(2)(b) (**Allegation H: Offensive Language – Gender**, § 87(2)(g)).

§ 87(2)(b) was not arrested or issued a summons during the incident, and no video footage was found in regards to the incident.

Findings and Recommendations

Allegation (A) Force: Police Officer David Ciangiulli used physical force against § 87(2)(b)

Allegation (B) Discourtesy: Police Officer David Ciangiulli spoke discourteously to § 87(2)(b)

Allegation (C) Offensive Language: Police Officer David Ciangiulli made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer David Ciangiulli frisked § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer David Ciangiulli searched § 87(2)(b)

Allegation (F) Discourtesy: Police Officer David Ciangiulli spoke discourteously to § 87(2)(b)

Allegation (G) Abuse of Authority: Police Officer David Ciangiulli took a photograph of § 87(2)(b)

Allegation (H) Offensive Language: Police Officer David Ciangiulli made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

§ 87(2)(b) stated that the night before the incident he had invited a guest to stay with him overnight in his hotel room, but when he woke up the morning of the incident date, he noticed that the guest had stolen some of his belongings. § 87(2)(b) called 911 to report the larceny, and two officers, Police Officer Ciangiulli and Police Officer Theiss, met him in his hotel room (Board Review 01). During their initial conversation, § 87(2)(b) informed the officers that he was HIV positive and that he had smoked meth the night before. § 87(2)(b) and the officers eventually went to the hotel lobby, and while they were there, § 87(2)(b) became light-headed and grabbed Police Officer Ciangiulli's arm. § 87(2)(b) was only holding a cane at the time. In that moment, Police Officer Ciangiulli pushed his arm towards § 87(2)(b) which caused § 87(2)(b) to fall onto the floor. The officers and § 87(2)(b) eventually went upstairs and waited outside of § 87(2)(b)'s hotel room for ECT.

While they were waiting, Police Officer Ciangiulli approached § 87(2)(b) and grabbed his hands. Police Officer Ciangiulli pulled § 87(2)(b)'s arms forward and squeezed all of his fingers. Police Officer Ciangiulli accused § 87(2)(b) of stabbing him and he asked him what he had poked him with when they were in the lobby. § 87(2)(b) told Police Officer Ciangiulli that he was lying. Police Officer Ciangiulli showed § 87(2)(b) a small red mark on his arm and yelled, "That's not a poke? Are you calling me a liar?!" Police Officer Ciangiulli yelled at § 87(2)(b) so loudly that his spit landed on § 87(2)(b). In front of § 87(2)(b) Police Officer Ciangiulli asked Police Officer Theiss, "What if I got HIV from this faggot?" Police Officer Ciangiulli also asked § 87(2)(b) if he had any needles on him.

Police Officer Ciangiulli proceeded to frisk § 87(2)(b) by touching his chest and his pockets from the exterior of his clothes. After Police Officer Ciangiulli felt the contents in § 87(2)(b)'s pockets, he instructed § 87(2)(b) to empty his pockets and he did so. Police Officer Ciangiulli spoke discourteously to § 87(2)(b) during the incident, including, "I don't give a shit about you," "No you son of a bitch – I ain't going nowhere with you," and, "That's what the fuck was wrong with you last night - you were too fucking stoned to know what the hell was going on."

At some point, Police Officer Ciangiulli grabbed § 87(2)(b)'s hands again and bent them. Police Officer Ciangiulli pulled each of § 87(2)(b)'s fingers and he slapped a mark he had on one of his hands. Police Officer Ciangiulli took a photograph of the mark on § 87(2)(b)'s hand and he told § 87(2)(b) that he was going to send it to a supervisor. Police Officer Ciangiulli also used a female voice to mimic § 87(2)(b) and repeatedly said, "I'm HIV positive." ECT eventually arrived, including Police Officer Daniel Park from Patrol Borough Manhattan South Specialized Units, and the officers informed Police Officer Park about what had happened.

Police Officer Ciangiulli stated that when the officers met § 87(2)(b) he informed them that he was HIV positive, but Police Officer Ciangiulli did not recall if § 87(2)(b) mentioned that he was a drug user (Board Review 02). While they were in the hotel lobby, § 87(2)(b) who was only holding a cane at the time, appeared to be "nodding out" and "falling over." As § 87(2)(b) was falling, he grabbed Police Officer Ciangiulli's arm for approximately a second. Police Officer Ciangiulli, who was wearing a jacket at the time, was looking away from § 87(2)(b) when he grabbed him. In that moment, Police Officer Ciangiulli felt a pinch on his arm that broke the skin. Police Officer Ciangiulli was concerned by the pinch because he has had health issues in the past. By the time Police Officer Ciangiulli looked back at § 87(2)(b) § 87(2)(b) had already removed his hands off of him; Police Officer Ciangiulli did not force § 87(2)(b) to remove his hands off of him. Police Officer Ciangiulli did not know what § 87(2)(b) may have used to pinch him because he did not observe him with any sharp objects at any point during the incident. When asked why did he believe § 87(2)(b) had pinched him, Police Officer Ciangiulli said because he had grabbed him in order to break his fall.

While they were waiting for ECT, Police Officer Ciangiulli asked § 87(2)(b) if he had any needles and if he used any drugs, in which § 87(2)(b) said no. Police Officer Ciangiulli asked § 87(2)(b) if he could roll up his sleeves, and § 87(2)(b) became offended and defensive. When asked why did he make that request, Police Officer Ciangiulli said that he wanted to see if § 87(2)(b) was a drug user by examining his arms for any marks, and that § 87(2)(b) was free to deny his request. § 87(2)(b) rolled up his sleeves, but he also began emptying his pockets and removing his clothes, including his shirt and his pants. Police Officer Ciangiulli did not ask § 87(2)(b) to do that. § 87(2)(b)'s belongings did not include any sharp objects.

At some point, ECT arrived, but Police Officer Ciangiulli did not discuss the incident with any of them. Police Officer Ciangiulli left the incident location to return to the stationhouse and Police Officer Theiss remained at the hotel with § 87(2)(b). Besides what occurred in the lobby, Police Officer Ciangiulli did not have any additional physical contact with § 87(2)(b) during the incident. Police Officer Ciangiulli did not use any offensive language in regards to sexual orientation or gender with § 87(2)(b). Police Officer Ciangiulli did not use any profanity while speaking to § 87(2)(b) and he did not mimic him. Police Officer Ciangiulli did not remember if he frisked § 87(2)(b) and he did not recall if he took any photographs of him. Police Officer Ciangiulli eventually went to the hospital in regards to this incident and he was given a cocktail shot.

Police Officer Theiss stated that when the officers met § 87(2)(b) began the conversation by saying, “Don’t fucking laugh at me and don’t call me a faggot” (Board Review 03). § 87(2)(b) also informed the officers that he was HIV positive and that he used intravenous drugs. While they were in the lobby, Police Officer Theiss was walking ahead of § 87(2)(b) and Police Officer Ciangiulli, so he could not see them at the time. At some point, Police Officer Theiss heard Police Officer Ciangiulli say, “Ahhh, I feel like I got pricked.” Police Officer Theiss turned around and he saw § 87(2)(b) a “little out of it,” but he was not on the floor. Police Officer Theiss was informed that § 87(2)(b) had grabbed Police Officer Ciangiulli’s arm, but he did not see that.

After they returned upstairs, Police Officer Ciangiulli examined his arm and he saw a red mark. The officers asked § 87(2)(b) if he had any needles, but Police Officer Theiss did not know which officer posed that question or if it was both of them. § 87(2)(b) became bothered by the question and he began removing his clothes, including his jacket and his shirt. § 87(2)(b) emptied his pockets and he removed the contents that were in his backpack. The officers did not instruct § 87(2)(b) to do any of that. While waiting for ECT, Police Officer Ciangiulli looked at § 87(2)(b)’s hands, but he did not make any physical contact with him while doing so. ECT eventually arrived and the officers left the incident location. Police Officer Theiss was unaware if anyone informed the ECT members about what had happened.

Police Officer Theiss stated that Police Officer Ciangiulli did not use any physical force with § 87(2)(b) during the incident. Police Officer Ciangiulli did not raise his voice while speaking with § 87(2)(b). Police Officer Ciangiulli did not use any profanity with § 87(2)(b) and he did not call him a “bitch” or a “faggot.” When asked how did Police Officer Ciangiulli react to the pinch he had felt, Police Officer Theiss described him as upset and confused because he did not know if he was actually pricked and he did not know what had caused him to feel that. Police Officer Ciangiulli did not frisk § 87(2)(b) and he did not take any photographs of him. Police Officer Ciangiulli did not mimic § 87(2)(b) during the incident.

Police Officer Park did not have any specific recollection of this incident (Board Review 04), and no civilian witnesses were found during the course of the investigation.

§ 87(2)(b), § 87(2)(g) All parties acknowledged that § 87(2)(b)’s HIV status was revealed towards the beginning of the incident, but at the time Police Officer Ciangiulli felt the pinch on his arm through his jacket, it is unknown whether there was any reason to believe that § 87(2)(b) was in possession of anything that would have caused that. According to § 87(2)(b) and Police Officer Ciangiulli, § 87(2)(b) was only holding a cane at the time he grabbed him, and Police Officer Ciangiulli did not observe § 87(2)(b) with any sharp objects before nor after the physical encounter. In addition, Police Officer Ciangiulli and Police Officer Theiss were not looking at § 87(2)(b) at the time the alleged pinch happened, so they were unaware as to how § 87(2)(b) could have caused it. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to four CCRB complaints and has been named as a victim in nine allegations (Board Review 05):
 - § 87(2)(b)
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- Police Officer Ciangiulli has been a member of service for five years and has been a subject in one CCRB complaint and three allegations, of which none were substantiated.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of December 24, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 06).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 07).

Squad No.: _____7_____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date